

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)	
)	
Proposal to implement a)	
competitive procurement process)	Docket No. 05-0159
by establishing Rider CPP, Rider)	
PPO-MVM, Rider TR-CPP and)	
revising Rider PPO-ML (Tariffs filed)	
February 25, 2005))	

**BRIEF ON EXCEPTIONS
OF THE UNITED STATES
DEPARTMENT OF ENERGY**

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December 19, 2005

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Comes NOW the United States Department of Energy ("DOE") on behalf of its two national laboratories (Argonne National Laboratory ("Argonne") and Fermi National Laboratory ("Fermi")) and on behalf of other Federal Executive Agencies, by its counsel, and pursuant to 83 Ill. Adm. Code Part 200.830, offers the following Brief on Exceptions to the Administrative Law Judge's Proposed Order dated December 5, 2005.

EXCEPTIONS

V.I.3. Treatment of Customers (greater than or equal to 3 MW) Taking Services

Subject to a Competitive Declaration

DOE takes strong exception to the Administrative Law Judge's proposed "Commission Conclusion" at V.I.3.f, page 125. The Administrative Law Judge paid no

attention to the merits of the arguments presented by Staff, DOE or by the Illinois Industrial Energy Consumers (“IIEC”), and failed to address whether requiring the provision of a fixed price product for customers with loads at or above 3 MW would be in the public interest. Rather, he dismissed the arguments and pleas for the safety net of a fixed-price, Provider of Last Resort (POLR) product by merely stating that the affected parties “have not shown that ComEd is required to provide such a product to these customers.” This ignores the clear evidence that the retail market for large customers is not fully mature and there is a need for a fixed-price POLR option.

DOE and the IIEC have demonstrated that the provision of an annual, fixed-price POLR product, secured through a separate auction or RFP, would not harm any party to these proceedings – the Company, other ratepayers or retail electric suppliers. Nor would it impair retail market development. The availability of a fixed-price POLR service is extremely important to IIEC’s members and to the Federal Executive Agency facilities because it provides a hedged product that can be relied upon if, for any reason, these customers are unable to obtain reasonable fixed-price offers from retail electric suppliers. Since no other party would be harmed by the availability of such a product, while some degree of price security would be provided to those affected large customers unable to obtain retail contracts, the provision of such a product would clearly be in the public interest.

DOE urges the Commission to substitute the following paragraph as the Commission’s conclusion on this issue:

“f. Commission Conclusion

The IIEC and DOE have demonstrated that there is a need for an annual, fixed-price POLR product to provide a safety net for large customers so that they would not be forced to rely on potentially volatile, unhedged hourly service in the event they are unable to obtain reasonable offers from retail electric suppliers. They also have demonstrated that no other party to this proceeding will be harmed by the provision of

such a product by ComEd, nor will it impair retail market development. Staff has provided support for the provision of such a product by ComEd to customers with loads of 3 MW or higher. Since the provision of such a product will provide benefits to large customers without harming any other party, the Commission concludes that the public interest will be served by the provision of such a product, and hereby directs ComEd to conduct a separate annual auction for the provision of an annual fixed price product for customers with loads of 3 MW or more. Costs for this service may be recovered from these customers in the same manner as for customers in the 1 MW to 3 MW category.”

WHEREFORE, DOE respectfully urges that the Proposed Order be modified in accordance with the Proposed Replacement Language contained in this Brief on Exceptions.

Respectfully submitted,

Lawrence A. Gollomp
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United States Department of Energy

Dated: December 19, 2005